

REFERENCE TITLE: PSPRS; reemployment

State of Arizona
Senate
Forty-ninth Legislature
First Regular Session
2009

SB 1161

Introduced by
Senator Pearce; Representative Kavanagh; Senators Gorman, Harper,
Verschoor; Representatives Burges, Konopnicki, Reagan, Tobin

AN ACT

AMENDING SECTION 38-849, ARIZONA REVISED STATUTES; RELATING TO THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 38-849, Arizona Revised Statutes, is amended to
3 read:

38-849. Limitations on receiving pension: violation: classification: reemployment after severance: reinstatement of service credits: reemployment of retired or disabled member

8 A. If a member is convicted of, or discharged because of, theft,
9 embezzlement, fraud or misappropriation of an employer's property or property
10 under the control of the employer, the member shall be subject to restitution
11 and fines imposed by a court of competent jurisdiction. The court may order
12 the restitution or fines to be paid from any payments otherwise payable to
13 the member from the retirement system.

14 B. A person who knowingly makes any false statement or who falsifies
15 or permits to be falsified any record of the system with an intent to defraud
16 the system is guilty of a class 6 felony. If any change or error in the
17 records results in any member or beneficiary receiving from the system more
18 or less than the member or beneficiary would have been entitled to receive
19 had the records been correct, the local board shall correct such error, and
20 as far as practicable shall adjust the payments in such manner that the
21 actuarial equivalent of the benefit to which such member or beneficiary was
22 correctly entitled shall be paid. If a member is convicted of a crime
23 specified in this subsection the member shall be entitled to receive a lump
24 sum payment of the member's accumulated contributions but forfeits any future
25 compensation and benefits which would otherwise accrue to the member or the
26 member's estate under this article.

27 C. If a member who received a severance refund ~~upon~~ ON termination of
28 employment, as provided in section 38-846.02, is subsequently reemployed by
29 an employer, the member's prior service credits shall be cancelled and
30 service shall be credited only from the date the member's most recent
31 reemployment period commenced. However, if the former member's reemployment
32 with the same employer occurred within two years after the former member's
33 termination date, and, within ninety days after reemployment the former
34 member signs a written election consenting to reimburse the fund within one
35 year, the former member shall be required to redeposit the amount withdrawn
36 at the time of the former member's separation from service, with interest
37 thereon at the rate of nine per cent for each year compounded each year from
38 the date of withdrawal to the date of repayment. ~~Upon~~ ON satisfaction of
39 this obligation the member's prior service credits shall be reinstated.

40 D. If a retired member is reemployed by an employer, no contributions
41 shall be made on the retired member's account, nor any service credited,
42 during the period of ~~such THE~~ reemployment. ~~Notwithstanding this subsection,~~
~~if a retired member subsequently becomes employed in the same position by the~~
~~employer from which the member retired, the system shall not make pension~~
~~payments to the retired member during the period of reemployment.~~ On

1 ~~subsequent termination of employment by the retired member, the retired~~
2 ~~member is entitled to receive a pension based on the member's service and~~
3 ~~compensation before the date of the member's reemployment.~~ If a member who
4 retired under disability is reemployed by an employer as an employee, that
5 member shall be treated as if the member had been on an uncompensated leave
6 of absence during the period of the member's disability retirement and shall
7 be a contributing member of the system. ~~For the purposes of this subsection,~~
8 ~~"same position" means the member is in a position where the member performs~~
9 ~~duties and exercises authority that are the same duties that were performed~~
10 ~~and the same authority that was exercised by the member before the member's~~
11 ~~retirement.~~

12 E. IN ADDITION TO SUBSECTION D OF THIS SECTION, IF A RETIRED MEMBER
13 BECOMES EMPLOYED IN ANY CAPACITY BY THE EMPLOYER FROM WHICH THE MEMBER
14 RETIRED BEFORE THIRTY DAYS AFTER THE MEMBER'S DATE OF RETIREMENT OR
15 SUBSEQUENTLY BECOMES REEMPLOYED ON A PAID FULL-TIME BASIS IN THE SAME
16 POSITION BY THE EMPLOYER FROM WHICH THE MEMBER RETIRED, THE SYSTEM SHALL NOT
17 MAKE PENSION PAYMENTS TO THE RETIRED MEMBER DURING THE PERIOD OF THAT TYPE OF
18 REEMPLOYMENT. AN EMPLOYER THAT REEMPS A RETIRED MEMBER WHO RETIRED WITH
19 THAT EMPLOYER SHALL NOTIFY THE LOCAL BOARD OF THE REEMPLOYMENT AND THE LOCAL
20 BOARD SHALL DETERMINE IF THE RETIRED MEMBER IS REEMPLOYED IN THE SAME
21 POSITION. ANY MEMBER WHO IS SUBJECT TO THAT LOCAL BOARD AND WHO OBJECTS TO
22 THE DECISION BY THE LOCAL BOARD ON THE REEMPLOYMENT OF A RETIRED MEMBER IN
23 THE SAME POSITION MAY FILE A COMPLAINT FOR SPECIAL ACTION IN THE SUPERIOR
24 COURT TO REVIEW THE LOCAL BOARD DECISION. ON SUBSEQUENT TERMINATION OF
25 EMPLOYMENT BY THE RETIRED MEMBER, THE RETIRED MEMBER IS ENTITLED TO RECEIVE A
26 PENSION BASED ON THE MEMBER'S SERVICE AND COMPENSATION BEFORE THE DATE OF THE
27 MEMBER'S REEMPLOYMENT. FOR THE PURPOSES OF THIS SUBSECTION, "SAME POSITION"
28 MEANS THE RETIRED MEMBER IS IN A POSITION WHERE THE RETIRED MEMBER PERFORMS
29 ANY OF THE DUTIES THAT WERE PERFORMED AND EXERCISES ANY OF THE AUTHORITY THAT
30 WAS EXERCISED BY THE RETIRED MEMBER BEFORE THE MEMBER'S RETIREMENT.

31 F. A person who defrauds the system or who takes, converts, steals
32 or embezzles monies owned by or from the system and who fails or refuses to
33 return the monies to the system on the fund manager's written request is
34 subject to civil suit by the system in the superior court ~~of~~ IN Maricopa
35 county. On entry of an order finding the person has defrauded the system or
36 taken, converted, stolen or embezzled monies owned by or from the system, the
37 court shall enter an order against that person and for the system awarding
38 the system all of its costs and expenses of any kind, including attorney
39 fees, that were necessary to successfully prosecute the action. The court
40 shall also grant the system a judicial lien on all of the nonexempt property
41 of the person against whom judgment is entered pursuant to this subsection in
42 an amount equal to all amounts awarded to the system, plus interest at the
43 rate prescribed by section 44-1201, subsection A, until all amounts owed are
44 paid to the system.

1 ~~F.~~ G. Notwithstanding any other provision of this article, the fund
2 manager may offset against any benefits otherwise payable by the system to an
3 active or retired member or survivor any court ordered amounts awarded to the
4 fund manager and system and assessed against the member or survivor.